

Application No.: 10/715,357
Amendment dated: October 1, 2004
Reply to Office Action of: July , 2004

REMARKS

The pending claim has been amended to improve the clarity of the claimed subject matter and to bring the claims into conformity with U.S. practice and format, and to place the application fully in condition for allowance. The original Abstract has been amended to provide a more concise summary of the disclosure in accordance with U.S. practice format.

Claim 1 is objected to due to an informality. In accordance with the Examiner's suggestion, proper antecedent basis is provided for "the central screw hole". Withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 112

Claim 1 is rejected 35 USC 112, second paragraph, as being indefinite. The Examiner objected to the phrase "web-like". The claim has been amended to avoid the objected to language. In view of the amendments to claim 1, withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

Claim 1 is rejected under 35 USC 103 as being unpatentable over U.S. 6,015,188 (Yundt et al.) in view of U.S. 3,232,662 (Graves) and U.S. 5,716,096 (Pryde et al.). Claim 1 has been extensively amended to more clearly claim the inventive subject matter. If the earlier rejection is to be repeated with regard to the amended claim, Applicant most respectfully traverses such finding.

Applicant most respectfully wishes to direct the Examiner's attention to the basic requirements of a *prima facie* case of obviousness as set forth in the MPEP. MPEP § 2143 states that to establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teachings of the reference. Second, there must be a reasonable expectation of success for the modification. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP § 2143.03 states that all claimed limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art". *In re Wilson* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *In re Fine* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claim 1 has been amended to positively recite a swivel ball seat (2) comprising concentric rings of varying diameters that are interconnected by connecting portions (25), and a swivel plate (3) comprising a base having concentric tracks of varying diameters that are interconnected by radial connecting portions (35), as illustrated in Figure 2.

In contrast, the base reference to Yundt et al. as illustrated in Figure 3, does not have an equivalent to a one-piece swivel ball seat (2) of the claimed invention. In the device of Yundt et al., bearing retainers 43 of varying diameters are not interconnected

by radial connecting portions, unlike the claimed invention. Similarly, the upper bearing plate 44 of Yundt et al. appears to be a solid piece, which cannot be equated to the claimed swivel plate (3) having concentric tracks of varying diameters that are interconnected by radial connecting portions (35).

The one-piece assembly of the claimed swivel ball seat (2) allows for a quick assembly of the overall device, since it is not in multiple pieces, and since the concentric rings of the swivel ball seat 2 are interconnected by the radial connecting portions (25), this ensures the simultaneous rotation of the entire swivel ball seat (2), which cannot be said of the device of Yundt et al., since its equivalent to the swivel ball seat is in multiple pieces.

The secondary reference to Graves has been cited for the sole purpose of teaching a foam rubber cushion element. The reference to Pryde et al. has been cited for the sole purpose of teaching a seat cover. Therefore, further modification of the base reference to Yundt et al. according to the teachings of Graves and Pryde et al. cannot result in the claimed invention, as presently amended.

In view of the amendments to the claim, and the remarks above, withdrawal of this rejection is respectfully requested.

In summary, it is respectfully submitted that none of the prior art individually or collectively shows the invention as claimed. Accordingly, withdrawal of the rejection of the claims appears to be warranted and the same is respectfully requested. In the event there are any outstanding matters remaining in the present application which can

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be resolved by a telephone call or facsimile communication to Applicant's Attorney, the Examiner is invited to contact the undersigned by telephone or facsimile at the numbers provided below.

Respectfully submitted,
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AMENDMENTS TO THE DRAWINGS:

Please approve the proposed amendments to Figure 2 of the drawings. No new matter has been entered.